

ORDINANCE NO. 1420-14

AN ORDINANCE OF THE BOROUGH OF GETTYSBURG, ADAMS COUNTY, PENNSYLVANIA, AMENDING CHAPTER 24, PART 1 OF THE CODE OF ORDINANCES OF THE BOROUGH OF GETTYSBURG IMPLEMENTING AN AMUSEMENT TAX BY REPLACING IT WITH AN AMENDED AND UPDATED PART 1.

The Borough Council of the Borough of Gettysburg hereby enacts, adopts, and ordains the following:

SECTION 1: Chapter 24, Part 1 of the Code of Ordinances of the Borough of Gettysburg previously ordained by the Borough Council of the Borough of Gettysburg by Ordinance 815-69 enacted on January 13, 1969 and amended by Ordinance 936-78 enacted on March 14, 1978 and by Ordinance 1028-85 enacted on August 12, 1985, is hereby amended and shall be updated and replaced with the following Part 1:

PART 1

AMUSEMENTS

SECTION 2: Imposition of Tax. A tax is hereby imposed, assessed and levied for general revenue purposes, at the rate of ten (10%) percent of the price of the admission charge to each and every amusement within, or originating within, the Borough of Gettysburg, which tax shall be paid by the person so admitted, providing that the person conducting such amusement shall be responsible for collecting said tax and transmitting the same to the Borough.

SECTION 3: Definitions. The following words and phrases when used in this Part 1 shall have the meanings ascribed to them in this section:

ADMISSION – A monetary charge of any character whatsoever, including monies, donations, fees, dues or membership fees charged or paid by the general public or a limited number thereof, for the privilege of attending, witnessing or engaging in any amusement as hereinafter defined. An all-inclusive fee that includes entertainment, food, drink or merchandise shall be deemed to be an admission. In the event the price of food, drink or merchandise is increased during the entertainment, such additional charge shall be considered an admission. In the case of persons (except bona fide employees of the person conducting the amusement or municipal or state officers on official business) admitted free or at reduced rates at a time when, and under circumstances which an established price is charged to other persons, the admission charge shall be the established price as charged to other persons.

AMUSEMENT – All manner and form of entertainment of any kind including, but not limited to: theatrical, musical or operatic performances, motion picture exhibitions, museums, carnivals, circuses, shows, athletic or sporting contests or events, swimming or bathing pools, amusement parks, exhibitions or displays, carriage rides, guided tours, tourist attractions and

any other form of entertainment, diversion, observation or instruction. Provided, that the rental of real property for camping purposes shall not be considered an amusement for purposes of this ordinance.

BENEFICIAL ORGANIZATION – An organization, association or other form of legal entity formed and operated for the protective relief of its members in the event of sickness or injury or to provide other benefits to its members as set forth in the articles of incorporation, constitution, bylaws or other such legal documents of the organization, association or entity and consistent with the laws of the Commonwealth of Pennsylvania.

BOROUGH – The Borough of Gettysburg, Adams County, Pennsylvania.

BOROUGH COUNCIL – The Borough Council of the Borough of Gettysburg, Adams County, Pennsylvania.

CHARITABLE ORGANIZATION — An organization that has been granted an exemption by the United States Internal Revenue Service under § 501(c)(3) of the United States Internal Revenue Code and/or an organization that has complied with the provisions of the Pennsylvania Solicitation of Funds for Charitable Purposes Act, 10 P.S. § 162.1 et seq., as amended.

NONPROFIT ORGANIZATION - An organization, association or other form of legal entity formed and operated for purposes other than generating profit as approved and authorized consistent with the laws of the Commonwealth of Pennsylvania.

PERSON – Any natural person, partnership, association, organization, corporation, company or any other form of legal entity.

PLACE OF AMUSEMENT – An amusement that:

(a) is wholly confined within the geographic boundaries of the Borough of Gettysburg; or

(b) has either its place of origin or place of termination within the geographic boundaries of the Borough of Gettysburg; or

(c) has a separate and distinct subpart wholly located within the geographic boundaries of the Borough of Gettysburg .

Real property rented for camping purposes shall not be considered a place of amusement for purposes of this ordinance.

RELIGIOUS ORGANIZATION - An organization or association formed and operated for purposes of promoting a set of beliefs concerning the cause, nature and purpose of the universe, usually involving devotion and ritual observances and often containing a moral code governing the conduct of human affairs.

SECTION 4: Exemptions. The following are hereby exempt from the tax imposed by this ordinance:

A. Membership in or membership dues, fees or assessments of charitable, religious, beneficial or nonprofit organizations including but not limited to sportsmen's, recreational, golf and tennis clubs, girls and boy scout troops and councils.

B. Membership, membership dues, fees or assessments, donations, contributions or monetary charges of any character whatsoever paid by the general public, or a limited or selected number thereof, for such persons to enter into a place, indoors or outdoors, to engage in any activities, the predominant purpose or nature of which is exercise, fitness, health maintenance, improvement or rehabilitation, health or nutrition education, or weight control.

C. A charge for admission to any form of amusement the proceeds of which inure primarily for the benefit of a properly organized and/or incorporated volunteer fire company.

D. A charge for admission to a motion picture theater.

E. A charge for admission to a bowling alley or bowling lane for the purpose of engaging in one or more games of bowling.

SECTION 5: Monthly Report and Payment of Tax to Borough. On or before the 15th day of each month following the conduct of an amusement, the person conducting such amusement, shall transmit to the Borough a report of the total admissions charged or collected the previous month and the total amount of tax due, and at the same time shall pay to Borough the total amount of tax due for the operations of the preceding month; provided, however, that as compensation for the expense of collecting and remitting the same, and as a consideration for the expense of collecting and remitting the same, and as a consideration for the prompt payment thereof, if such report is transmitted and tax due paid within the time herein prescribed, then such person shall be entitled to a credit and retain against the tax due a discount of two (2%) percent thereof.

SECTION 6: Records of Admissions.

A. Every person required by the provisions of this ordinance to pay an amusement tax on admissions must keep or cause to be kept an accurate record of all admissions and of any reduced rate of admissions charged and of any admissions for which no charge was made. The records must show as to each class of admissions:

- (1) All figures and other information necessary to determine the amount of tax due; and
- (2) The amount of tax due.

B. The records must be kept on file and accessible at the place of business or at some other convenient location and shall be made available for the review and inspection by the Borough or its designated agent.

C. Such records shall contain sufficient information to enable the Borough or its designated agent to determine whether the correct amount of tax has been paid.

SECTION 7: Examination of Records. The Borough or its designated agent is hereby authorized to examine any relevant books, papers, returns and records of any person required by the provisions of this ordinance to pay an amusement tax on admissions charged and collected in order to verify the accuracy of any report made or to ascertain and assess the tax imposed by this ordinance.

SECTION 8: Confidentiality and Unauthorized Disclosure. Any information gained by any official or agent of the Borough as a result of any returns, investigations, verifications or audits required or authorized by this ordinance shall be confidential except for official purposes and except in accordance with proper judicial order of a court of competent jurisdiction, the Right-to-Know Law or as otherwise provided by law.

SECTION 9: Penalty Added to Unpaid Tax. If any person shall fail to pay, when due, the tax due under this ordinance, a penalty of ten (10%) percent of the amount of tax due and unpaid shall be added thereto, which penalty shall be in addition to interest at the rate of six (6%) per annum on the amount of said tax not paid when due.

SECTION 10: Enforcement. If it appears to the Borough, or the Borough's designated agent, that a violation of this ordinance has occurred, the Borough, or the Borough's designated agent, shall initiate enforcement proceedings by issuing an enforcement notice. The enforcement notice shall be sent to the violator and, if applicable, the owner of record of the real property at which the violation has occurred.

SECTION 11: Penalties. Any person convicted of violating or failing to carry out any of the provisions or requirements of this ordinance, or of neglecting, failing or refusing to furnish complete and correct reports or returns, or to pay over any tax levied pursuant to this ordinance at the time required or of knowingly making any incomplete, false or fraudulent returns, or of attempting to do anything to avoid the payment of the whole or any part of the tax imposed under this ordinance, shall, upon conviction thereof, be sentenced to a fine of not more than six hundred (\$600) dollars plus costs. Whenever such person shall have been notified by the Borough, through its officials or by service of summons or prosecution, or in any other way, that such violation has been committed, each day that such person shall continue in such violation shall constitute a separate offense. Provided, that such fine or penalty shall be in addition to any other penalty imposed by any other section of this ordinance.

SECTION 12: Severability. The provisions of this ordinance are severable, and if any section, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not

affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Borough Council that this ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION 13: This ordinance shall become effective on January 1, 2015.

THIS ORDINANCE DULY ENACTED AND ORDAINED according to law on this 8th day of December, 2014, at a duly advertised general monthly business meeting of the Borough Council of the Borough of Gettysburg.

BOROUGH OF GETTYSBURG

By: Michael J. Birkner
Michael J. Birkner
President of Borough Council

Attest:

Sara L. Stull
Sara L. Stull, Secretary

APPROVED this 8 day of December, 2014.

William E. Troxell
William E. Troxell, Mayor